

IN THE OFFICE OF THE STATE ENGINEER  
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATIONS 60272, )  
60273, 60274, 60275 AND 60276 FILED TO )  
CHANGE THE PLACE OF USE AND THE MANNER )  
OF USE OF UNDERGROUND WATER WITHIN THE )  
AMARGOSA DESERT GROUNDWATER BASIN )  
(230), NYE COUNTY, NEVADA. )

RULING

# 4572

GENERAL

I.

Application 60272 was filed on July 28, 1994, by Amargosa Resources, Inc. to change the place of use and the manner of use of 8.0 cubic feet per second (cfs) of the underground water previously requested for appropriation under Application 58372. The proposed manner and place of use is for wildlife purposes within the Amargosa Desert Groundwater Basin as designated by the State Engineer's Order No. 724. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 25, T.15S., R.49E., M.D.B.&M.<sup>1</sup>

II.

Application 60273 was filed on July 28, 1994, by Amargosa Resources, Inc. to change the place of use and the manner of use of 8.0 cfs of the underground water previously requested for appropriation under Application 58373. The proposed manner and place of use is identical to that described under Application 60273. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 29, T.15S., R.49E., M.D.B.&M.<sup>2</sup>

III.

Application 60274 was filed on July 28, 1994, by Amargosa Resources, Inc. to change the place of use and the manner of use of 8.0 cfs of the underground water previously requested for appropriation under Application 58444. The proposed manner and

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<sup>1</sup> File No. 60272, official records in the office of the State Engineer.

<sup>2</sup> File No. 60273, official records in the office of the State Engineer.

place of use is identical to that described under Applications 60272 and 60273. The point of diversion is described as being located within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 16, T.15S., R.49E., M.D.B.&M.<sup>3</sup>

IV.

Application 60275 was filed on July 28, 1994, by Amargosa Resources, Inc. to change the place of use and the manner of use of 8.0 cfs of the underground water previously requested for appropriation under Application 58445. The proposed manner and place of use is identical to that described under Applications 60272, 60273 and 60274. The point of diversion is described as being located within the SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 15, T.15S., R.49E., M.D.B.&M.<sup>4</sup>

V.

Application 60276 was filed on July 28, 1994, by Amargosa Resources, Inc. to change the place of use and the manner of use of 8.0 cfs of the underground water previously requested for appropriation under Application 58446. The proposed manner and place of use is identical to that described under Applications 60272, 60273, 60274 and 60275. The point of diversion is described as being located within the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 36, T.15S., R.49E., M.D.B.&M.<sup>5</sup>

VI.

Applications 60272, 60273, 60274, 60275 and 60276 were timely protested by Geneerco, Inc., Nye County, United States Department of Interior, National Park Service, U.S. Fish and Wildlife Service and Amargosa Water Committee, et al. for a multitude of reasons.<sup>1-5</sup>

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<sup>3</sup> File No. 60274, official records in the office of the State Engineer.

<sup>4</sup> File No. 60275, official records in the office of the State Engineer.

<sup>5</sup> File No. 60276, official records in the office of the State Engineer.

FINDINGS OF FACT

I.

Applications 60272, 60273, 60274, 60275 and 60276 were filed to change the place of use and the manner of use of Applications 58372, 58373, 58444, 58445 and 58446. The base applications which these applications seek to change were denied by State Engineer's Ruling No. 4548, issued on July 25, 1997.<sup>6</sup> No appeal was timely taken from the denial of Applications 58372, 58373, 58444, 58445 and 58446.

The State Engineer finds that the denial of the base right Applications 58372, 58373, 58444, 58445 and 58446 which are sought to be changed pursuant to the applications under consideration here precludes any possibility of an appropriation of water to beneficial use ever occurring under these change applications.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>7</sup>

II.

Nevada Revised Statute § 533.345(1) provides that an application can be filed to change the point of diversion, the place of use and the manner of use of water which has been already appropriated. Water already appropriated refers to a water right permit or certificate which is in good standing. Where the base water right application has been denied by the State Engineer there is no water right in good standing which could be changed under any change application. The State Engineer concludes that the denial of the base right Applications 58372, 58373, 58444, 58445 and 58446 removes any possibility of granting these change applications.

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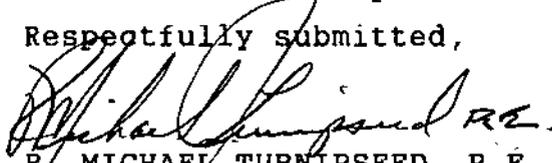
<sup>6</sup> State Engineer's Ruling No. 4548, issued July 25, 1997, official records in the office of the State Engineer.

<sup>7</sup> NRS Chapters 533 and 534.

RULING

Applications 60272, 60273, 60274, 60275 and 60276 are hereby denied on the grounds that no water rights exist under the base water right applications which the subject applications seek to change. No ruling is made on the merits of the protests.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/MDB/ab

Dated this 6th day of  
October, 1997.